IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

Bail Appl..No. 6420 of 2007()

CRIME NO.290/2005 OF NADAKKAVU POLICE STATION, KOZHIKODE

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: PETITIONERS/ACCUSED 2 & 3

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1. JAYAN.C., AGED 26 YEARS,
S/O.CHELLAPPAN, PANAYIL VEEDU,
MEMALA P.O., VITHURA, NEDUMANGADU TALUK,
THIRUVANANTHAPURAM.

2. RAJESH.T., AGED 24 YEARS,
S/O.TAITUS, THOTTARIKKATHU VEEDU,
THALLACHIRA, MEMALA P.O., VITHURA,
NEDUMANGADU TALUK, THIRUVANANTHAPURAM.

BY ADV. SRI.S.GOPAKUMARAN NAIR
SRI.S.GOWTHAM

RESPONDENTS:

SUB INSPECTOR OF POLICE,
NADAKKAVU POLICE STATION, KOZHIKODE,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6420 of 2007

Dated this the 24th day of October, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 2 and 3 in a crime which was initially registered for offences punishable, inter alia, under Sections 324 and 307 r/w 149 I.P.C. The alleged incident had taken place on 4.9.05. The crime was registered only on 8.9.05. The crux of the allegations is that there was a dispute between two sets of workmen employed in construction work. The victim belongs to the group of workers who were brought from Bengal. On account of the alleged negligence of the alleged victims those working beneath had suffered injuries and consequent to that, later, there was a dispute and quarrel. In the course of such quarrel, the victims were allegedly beaten with dangerous weapons like iron rods etc. by a group of workmen. 4 persons are specifically named in the F.I statement lodged before the police after 4 days of occurrence. One of the victims had suffered injuries to kidney and ultimately one kidney of his had to be removed also. The petitioners are not shown initially in the array of accused. 4 persons though named in the F.I.R, 2 of them have been deleted from the array. In their place, the petitioners have been brought on the array. Though initially allegations under Section 149

I.P.C and other allied offences were raised, now allegation is raised only under Sections 324 and 307 r/w 34 I.P.C.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. They have been unnecessarily brought on the array of accused. Even going by the version of the prosecution, it can be seen that a number of other persons were available at the scene. Omnibus allegations were raised against all such persons. Ultimately the petitioners who were not named in the F.I.R have been dragged into the controversy. Investigation is already complete. The petitioners may not be compelled to endure the trauma of arrest and detention. Anticipatory bail may be granted to the petitioners, it is prayed.

3. The learned Public Prosecutor submits that the State does not at this stage want to oppose the application for anticipatory bail, the substantial portion of the investigation having already been completed.

4. I have perused the case diary. Considering the nature of the contention, I am satisfied that the petitioners can be granted anticipatory bail subject to appropriate terms and conditions.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 31.10.07. They shall be enlarged on regular bail on their

executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 01.11.07 and 02.11.07 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of one month. Subsequently the petitioners shall make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 31.10.07 as directed in clause (1) above, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each without any sureties undertaking to appear before the learned Magistrate on 31.10.07.

(R.BASANT, JUDGE)

rtr/-